

E-FILED 7/23/07

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

YU CHEN AND BIN ZHU,

Plaintiffs,

v.

ALBERTO GONZALES, et al.,

Defendants.

Case Number C 07-00312 RS

ORDER

On January 22, 2007, the Court entered an order to show cause why plaintiffs Yu Chin and Bin Zhu should not be granted the relief they requested. Defendants' response asserts the Court lacks subject matter jurisdiction over this matter and requests dismissal, albeit not in a formal motion to dismiss. Defendants' jurisdictional arguments appear to have been rejected by every court in this district that has considered them, and this Court sees no basis to deviate from the considered analysis in those decisions. See, *Qui v. Chertoff*, 2007 WL 1831130, *2 n.3 (N.D. Cal. June 25, 2007) (collecting cases from not less than ten judges in this district finding jurisdiction exists on facts materially indistinguishable from the facts here). Accordingly, the

1 Court will not invite defendants to make a motion to dismiss. It appears, however, that the issues
2 raised in the complaint likely are amenable to resolution on summary judgment. The parties are
3 directed, therefore, to file cross-motions for summary judgment as promptly as practicable.

4 IT IS SO ORDERED.

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6 Dated: 7/23/07

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8 RICHARD SEEBORG
9 United States Magistrate Judge
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THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY PROVIDED TO:

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Counsel are responsible for distributing copies of this document to co-counsel who have not registered for e-filing under the court's CM/ECF program.

Dated: July 23, 2007

/s/ BAK
Chambers of Magistrate Judge Richard Seeborg